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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,207	07/19/2001	Eric De Buyl	GC450-US-D1	1260

5100 7590 06/10/2003

GENENCOR INTERNATIONAL, INC.  
ATTENTION: LEGAL DEPARTMENT  
925 PAGE MILL ROAD  
PALO ALTO, CA 94304

EXAMINER
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WILDER, CYNTHIA B

ART UNIT	PAPER NUMBER
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1637

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DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/909,207

Applicant(s)  
BUYL et al.

Examiner  
Cynthia B Wilder

Art Unit  
1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Nov 18, 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 8-12, 15-18, and 25-35 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 8-12, 15-18, and 25-35 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## DETAILED ACTION

### *Sequence Election Requirement Applicable to All Groups*

1. Claims 8-12, 15-18 and 25-35 reads on patentably distinct SEQ ID Number (SEQ ID NO:). Each of the sequences or are patentably distinct because the sequences are structurally unrelated sequences and are distinct compounds and a further restriction is applied the claims 8-12, 15-18 and 30-33. Applicant must further elect one (single) SEQ ID Number selected from the group consisting of SEQ ID NOS: 1, 4, 10 to be examined with the corresponding claims.

*MPEP 803.04 states:*

Nucleotide sequence encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. The sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence or amino acid sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 eq seq. By statute, "[i]f two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions". 35 U.S.C. 121. Pursuant to this statute, the rules provided that "[i]f two or more independent and distinct invention are claimed in a single application, the examiner in his action shall require the Applicant..... to elect that invention to which his claim shall be restricted." 37 CFR 1.142(a). See also 37 CFR 1.141(a)

**Applicant is advised that examination will be restricted to only the elected *single* SEQ ID NO: selected from SEQ ID NOS: 1, 4 and 10 and should not be construed as a species election.**

Non-elected sequences in multiple sequence claims will be withdrawn from prosecution..

2. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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A fully responsive reply will comprise the election of both a particular single sequence to be examined along with the corresponding claims.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventor ship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventor ship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Cynthia Wilder whose telephone number is (703) 305-1680. The examiner can normally be reached on Monday through Thursday from 9:30 am to 6:30 pm and on Friday from 9:30 am to 1:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion, can be reached at (703) 308-1119. The official fax phone number for the Group is (703) 308-4242. The unofficial fax number is (703) 308-8724.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Group's receptionist at (703) 308-0196.

cbw  
June 6, 2003

Cynthia B. Wilder, Ph.D.  
Patent Examiner  
Art Unit 1637

*Cynthia B. Wilder*